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ABSTRACT

Agencies and individuals making decisions and recommendations for American Indian children in foster care should have a structured approach to the assessment, decision making, and replacement of these children. The underlying goal for all decisions should be to arrange a permanent home where the child can develop tribal identity. Placement decisions must be based on the assessment of the child, parents, extended family, tribe, emotional attachments between each person involved, and the benefits of returning a child to his/her tribe. After completion of the needed assessments, placement options should be identified: return child to parents; leave child with foster parents; adoption by extended family, tribal member, Indian parents of different tribe, or foster parent; or place child with foster parents of another tribe. The role of the judge, social service worker, child, family, and community needs to be clear. When implementing a decision the following should be considered: preparation of the child and family for the child's move, mechanics of placement (e.g., the child's sense of time, nature of visits), stages of adjustment, and various post-placement resources and services. After implementation of a decision, the placement must be monitored so that services can be offered if problems develop. (NQA)

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DECISION MAKING REGARDING AMERICAN INDIAN CHILDREN AND FOSTER CARE

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[1979]

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TABLE OF CONTENTS

		Page
I.	Introduction	1
	A. Types of Situations	
	B. Problems resulting in need for Child Placement	
II.	Goals	1
	A. Permanent Home	
	B. Tribal Identity	
III.	Assessment and Evaluation	2
	A. Assessment of Child	
	B. Assessment of Parent(s) and Extended Family	
	C. Assessment of the Emotional Relationships	
IV.	Alternative Placement Arrangements	5
	A. Factors to Consider	
	B. Placement Alternatives - Chart	
V.	Point of Decision Making	8
	A. Judge's Role	
	B. Social Service Role	
	C. Child's and Family's Role	
	D. Community's Role	
VI.	Implementations of the Decision	9
	A. Preparing Child and Family for the Child's Move	
	B. Mechanics of Placement - "How-to's"	
	C. Stages of Adjustment	
	D. Post Placement Services	
VII.	Evaluation of the Placement Decision	10
	A. Court Review	
	B. Citizen's Review Board	
	C. Administrative Review	
	D. Case Review	
VIII.	Disruption and Replacement	11
IX.	Development of Community Resources	11
	A. Group Homes	
	B. Group Treatment and Counseling	
	C. Individual Casework	
	D. Child Enrichment Programs	
	E. Communication and Problem Solving	
X.	Conclusion	11

DECISION MAKING REGARDING AMERICAN INDIAN CHILDREN AND FOSTER CARE

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I. Introduction

There has been much written regarding the political, cultural and social reasons for Indian children having been removed from their parents and placed in non-Indian, off-reservation foster homes throughout the country. It is estimated that 25% of American Indian children under 18 are in out of home care, including boarding schools, institutions and foster homes. (Destruction of American Indian Families, p.1).

The Indian Child Welfare Act of 1978 (PL 95-608) provides for involvement of the child's tribe in deciding the child's placement. There are many factors that need to be taken into consideration in gathering information and in making the decision as to where the Indian child will be placed. The decisions regarding placement or replacement of Indian children requires a thorough assessment and evaluation of the child and his/her relationship with parents, extended family and foster parents.

With a multitude of agencies and individuals involved in planning the future of Indian children presently in care, it seems appropriate to outline the type of information necessary to make decisions consistent with the needs and resources of Indian children and their families.

This outline has been developed to assist judges and social workers at the Tribal, State, and County levels in planning for Indian children in out of home care.

A. Types of situations. Judges, social workers and other professionals involved with child placement under the ICWA will basically have two kinds of child placement situations to plan for:

1. Indian children just coming into care from their parental home.
2. Indian children in existing foster homes (in and out of state).

B. Problems resulting in need for child placement. Children coming into care have generally been defined as:

1. Neglected
2. Abused
3. Abandoned
4. In need of specialized care or services (medical, educational, emotional or physical) that cannot be provided at home. Examples of these problems might be mental retardation, fetal alcohol syndrome, blindness, deafness, or some other developmental disability.

NOTE: These problems should not ordinarily necessitate placement out of the child's home.

II. Goals

A. Permanent Home. The underlying goal for all children should be to arrange a permanent home for the child as expeditiously as possible. In building and improving a new or existing Tribal Social Service Program, the goal of permanency should become the focus and services should receive priority based on their effectiveness in obtaining permanency for children.

B. Tribal Identity. The goal of permanency needs to be achieved in the context of maintaining and supporting the Indian child's sense of identity and community with his family, extended family and tribe.

CAUTION: There may be children in existing placements who have never developed a sense of Indian and tribal identity. Planning for these children must be done very carefully with the realization that for some the opportunity to return to the tribe will need to consider the child's feelings about his identity and his choice in re-involving himself with Indian culture.

III. Assessment and Evaluation.

The assessment and evaluation of the child, parents, extended family, and significant others should be completed as the basis of any placement decision. The points under each assessment are areas to be considered in every proposed placement but cannot be viewed as a complete assessment tool.

A. Assessment of Child: Areas to be Included.

1. Assessment and evaluation of the actual developmental and psychological stage of the child's behavior and feelings, taking into consideration the child's chronological age and emotional age.

2. The quality of the child's attachment to present foster parent(s).

3. The number of placements, duration of those placements, and the effect of those placements on the child.

4. The number of visits and quality of contact the child has had with parents and extended family.

5. An assessment of the agency's ability to arrange visits and support the relationship between the child and parent(s).

6. Identification of any specialized services the child is receiving (educational, social, medical, etc.)

7. Determination of the child's desires, wishes, and motivation to return to the reservation, given the age of the child and the situation.

8. Determination of who can meet the child's developmental needs regarding identity formation and development of tribal survival skills and self-esteem.

9. Discussion of the importance of the family, clan, and tribal support network for the child in terms of transmitting tribal and cultural values, attitudes, and coping mechanisms related to racial prejudice, peer acceptance, and dating and marriage practices.

B. Assessment of Parent(s) and Extended Family: Areas to be Considered.

1. Description of the social and developmental background and current information (i.e., age, tribal identification, marital situation and stability, present family responsibilities, areas of change and coping abilities).

2. Discussion of the parent's attitudes and feelings about willingness and readiness to accept and cope with the returning child who has been in placement.

3. Discussion of the extent to which the extended family and community will accept and support the child's return and re-entry into the family and community.

4. Discussion of the extent to which the tribe will accept and support the child in terms of:

   a. Enrollment issues
   b. Supportive services such as counseling, funding for special needs and crisis intervention
   c. Acceptance of the child's differences
      (1) inability to speak tribal language
      (2) child who looks different, has different mannerisms, interests, hobbies, and over-all frame of reference.

5. Evaluation of the family's ability to help the child negotiate differences in life style:

   a. Different degree of privacy
   b. Different degrees of physical closeness and ways of expressing affection (to touch or not to touch)
   c. Different hobbies and interests
   d. Child's familiarity with urban, materialistic values which may differ from family's values.

6. Identification of differences in religious and philosophical beliefs and practices.

7. Indication of the family's ability to utilize help in preparation for the child's re-entry into the family/extended family/tribe.

8. Indication of the ability and willingness of the siblings to adjust to the child's return.

9. Description of the extent to which the family's behavior has expressed an interest in having the child returned to them. Identify specific behaviors that indicate this.

C. Assessment of the emotional relationship between each of the persons involved (child, parent(s), foster parent(s), extended family).

1. The emotional attachments and bonds between the child, parent(s), foster parent(s), and extended family need to be described.

Points to consider:

a. If a natural parent has not had access to the child because of geographical distance, grounds for further lack of meaningful contact and relationship building between the parent and child do not exist. All efforts should be made to familiarize the child and parent with one another.

b. Children can be cared for emotionally by more than one person. Loyalty issues are based on property and ownership concepts. Indian values are based on sharing, cooperation, and group caring, not on individual vs. individual concepts. Indian child welfare services are to be based on Indian values and practices, not on concepts developed from a non-Indian world view.

c. Indian values and attitudes are practical and are based on common sense. The practice of having many persons available to care for the child is valued. The concept of "open adoption" has been a tradition long practiced by Indian persons.

d. Placement decisions should incorporate the strengths and positiveness of each of the relatives in the child's past and current situations.

e. Children need to acknowledge their history and past relationships and be open to both sides of the family. They can have ongoing positive emotional relationships with several significant persons.

f. The terms, "best interest of child" and "psychological parent" are often misused in planning for Indian children. (Destruction of American Indian Families, p. 57)

2. The benefits of returning a child to his/her tribe should be considered.
Points to consider:

a. A chance to belong to an extended family and clan
   (1) develop a positive Indian identification
   (2) experience security
   (3) exposure to new identification models
   (4) learn tribal language.

b. Importance of living on and becoming familiar with reservation

   (1) learn traditional activities
   (2) learn an appreciation for spiritualism/land/resources instead of materialism/consumerism.

c. Develop a world view incorporating spiritual/religious dimensions
   (1) social-religious ceremonies, pow-wows, intertribal rodeos
   (2) birth, naming, puberty rites
   (3) men's activities, i.e., sweat baths.

d. Experience the strengths of extended family

(1) planning and decision making involving more than one person
(2) shared roles and responsibilities
(3) integration of young and old
(4) different child rearing and discipline patterns.

e. The practice and knowledge of these various benefits will be influenced by
(1) tribal background
(2) intertribal marriage
(3) degree of contact to non-Indian lifestyle
(4) degree of economic and class variations experienced.

IV. Alternative Placement Arrangements.

A. Thoughtful and sensitive planning and decision making regarding child placement may include these factors:

1. Evaluation of the quality of the existing relationship within the family and the realistic options, given the current situation.

2. Determination of the future developmental tasks to be completed by the child. Who can help the child with these tasks? Identity issues and teaching of survival skills may be best handled by the on-reservation Indian family and community.

3. Acknowledgement of the child's own thoughts, desires, and wishes.

4. Willingness of tribal and community services to make replacement workable for all involved.

5. Can the child, parent, and tribe be open, flexible and creative to new ideas and solutions that will make the placement successful for all involved?

6. Can the legal jurisdictional framework allow the child and parent(s) to maintain contact without physical transfer of custody?

7. Can funding from the tribe be included for children remaining in the previous home setting?

8. Can the tribe recruit and train a pool of on-reservation Indian families as a resource for older/special needs children when the natural family can not care for the child?

B. The following chart of types of placements can be used to determine what placement best fits a particular child's needs based on the previous assessments:

PLACEMENT ALTERNATIVES

1. Return Child to Parents	Factors to be considered
a. Return child to parent(s) with no contact to past placement.	The appropriateness of this varies according to the individual situation. Having no contact between the child and his foster family denies the child's history and is generally not a positive experience for either the child, parent(s), or foster parent(s).
b. Return child to parent(s) with decreasing contact between child and foster family.	This type of placement is usually healthy and promotes gradual acceptance , identification and transfer of attachment of child from foster to biological family.
c. Return child to parent(s) with continuing contact with foster family.	This is known as an "open placement" and can be experienced as positive and healthy for all involved. This allows the child to have two significant, supportive families. The foster family may become similiar to an extended family. Both families must be compatible and committed to providing support for the child.
2. Leave Child with Foster Parents	
a. Child remains in foster home with no contact with family.	This is rarely, if ever, appropriate. It should not be encouraged except for short periods of time while some type of permanancy planning takes place for the child. Without adequate review, the child may become "lost" in the system.
b. Child remains in foster home with some contact with family.	This is generally used for a limited time. Visits between bio-parent and child are maintained. This is sometimes necessary while child receives special services not obtainable at home (educational, medical, therapeutic foster care).
c. Child remains in off reservation in foster home and has some contact with family and other Indian persons in the community.	This is sometimes recommended for older children when for some reason the gap between the resources of the parent(s) to care for the child and the needs of the child prevent the child from living at home.

3. Place Child on Reservation with Extended Family or Foster Parents

a. Child placed from foster home into extended family with some on-going contact with parent(s).	Rearing of children by extended family members is a common Indian practice. The extended family needs to be evaluated regarding their desires, ability and capacity to care for another child. The relationship between the child's parent(s) and extended family should be evaluated as well. For the placement to be beneficial to the child an element of mutuality, acceptance, and support must be present between the parent(s) and the extended family.
b. Child placed with an Indian foster family on reservation and has some contact with parent(s) and extended family. Tribe offers support for this triad.	This is almost always appropriate for new placements. Careful diagnosis should be made before this kind of arrangement is used as a transitional home between off-reservation foster home and parent(s) as it may be more damaging to move the child an extra time than to leave him/her in the off-reservation foster home while the family is being prepared for the child's return.

4. Adoption

a. Adoption by extended family, other tribal member or Indian parents of a different tribe (order of preference dictated by ICWA, Sec. 105.(a).)	This is a preferred way of achieving permanency and strengthening the child's development of Indian identity when a child's parent(s) are not able to provide a permanent home for the child. The concept of "open adoption" may be very appropriately applied in those instances where some relationship with the parent(s) is possible and desirable, but full time care of the child is not possible.
b. Adoption by foster parent if foster parent is not a member of the extended family, tribe or other Indian tribe.	This may be appropriate, if after careful assessment it is determined that the child's parents cannot provide a permanent home, and replacement of the child would be damaging to him/her, and the foster parents are fully committed to providing a permanent adoptive home for the child.

5. Other Options

a. Child placed with foster parent(s) of another tribe.	This may be appropriate when child is in an urban area and the plan is to remain there. Permanency planning should be carefully implemented to avoid lengthy foster care placements.

V. Point of Decision Making.

As soon as the needed assessments have been completed and placement options identified, the decision as to where the child will be placed must be made. In order for good decisions to be made, the roles of those contributing to the decision need to be clear.

A. Judge's role. The judge will make the ultimate decision and has the authority to do so. Reaching a decision that meets the needs of the child can be helped by support from Social Services and other community resources.

B. Social service role. The social worker(s) have the responsibility of making assessments of the child, families and relationships between them and presenting these assessments and supporting data to the court in the form of a court report. The social worker also has the responsibility of facilitating the implementation of the placement decision made by the judge.

C. Child's and family's roles.

1. The child and the family each need the option of choosing not to follow through with the child's return after thoughtful, complete and thorough consideration of everyone's feelings about the child's return.

2. There also needs to be individual decisions made about return of siblings. It may not be possible to return all the children in one family and it certainly is likely that it will not be appropriate for all siblings to be returned at the same time (see Section VI of this paper).

3. Special input from the child and family must be considered in unusual instances such as:

   a. a child with parents from different tribes
   b. a child who strongly identifies with a culture other than his own tribe
   c. a child who has been in a cross-tribal placement.

D. Community's role.

1. Some decisions are made difficult because of political-social pressure brought to bear by the community. For example, in some Indian communities it is very unpopular for a tribal judge to decide to:

a. accept a parent's relinquishment of his/her child
b. involuntarily terminate parental rights
c. decide not to return a child to the parent(s), extended family or tribe.
d. guardianship vs. adoption issues (The Uprooted, p. 29)

In some instances community education needs to take place so that the court and agencies are free to make appropriate recommendations and decisions.

VI. Implementation of the Decision

A. Preparing child and family for the child's move. Issues that must be addressed with the help of a placement worker:

1. The five stages of separation are:

a. shock
b. protest, denial
c. anger
d. depression
e. acceptance

2. Use of family and child communication aids such as: lifebook, photos, films, telephone and letters (Adopting the Older Child, p.70)

B. Mechanics of placement - "How to's"

1. Placement decisions should reflect the child's sense of time. Example:

Under 2 years old - - - - - a few days-two weeks
Under 5 years old - - - - - 2 months
Younger school age - - - - - up to 3-6 months
Older school age - - - - - up to 1 year

2. Nature of visits (location, who is involved)

3. Readiness and willingness of child and family for placement. The placement should provide the least detrimental available alternative for safeguarding the child's growth and development (Destruction of American Indian Families, p. 57).

4. Roles and responsibilities of:

a. worker
b. parent
c. foster parent

5. Returning siblings. The older, harder to place, most troubled children should move back to the family first and be given time and support in adjusting. This might take from one to two months.

C. Stages of adjustment. The placement is similiar to a marriage. It has these stages of development:

1. Honeymoon period

2. Testing-acting out - such as lying, sibling rivalry, temper tantrums, eating problems.

3. Family accepts child's differences.

4. Acceptance, indentification and bonding.

5. Child has two processes to go through:

   a. Separation and loss from the previous placement.
   b. Acceptance of and bonding to the present relationship.

6. The placement crisis gives opportunity for growth and bonding to form a new family (The Adoption Dilemma, p. 27).

D. Post placement services.

1. Placement worker needs to follow through with support to child and family:

   a. Discussing child's emotional attachment and loss to previous placements.
   b. Providing on-going services: concrete services and counseling, homemaker, medical, educational.

2. Extended family can offer support: role models, day care, respite care.

3. Community services can be sensitized to the needs of the returning child, and make legal, social, and support services readily available.

4. Support groups for parents and children can be started: counseling, social recreational activities.

5. Searching for natural parents and tribal identity.

6. Return to Reservation as adult adoptee. Services with Indian adult adoptee are: Tribal enrollment, legal rights, marriage partners, community acceptance.

VII. Evaluation of the Placement Decision

After the decision regarding placement of a child has been made and implemented, it is necessary for someone to follow up, gather data and evaluate the appropriateness of continuing the child's present placement. Even though the ICWA doesn't address monitoring the cases after placement, this safeguard should be included in tribal guidelines. Realistic time frames can be incorporated in monitoring cases and placements. For example: one month, three months and six month intervals. This review may take place in one or more of several different ways.

A. Court review. Routine review by the judge of all placement decisions, including the child who returns home, after the six months or sooner on petition of any of the parties.

B. Citizen's review board. A community task force to determine and review the needs of children who are placed out of home or who have recently been returned to their families. This citizen review board would make recommendations to the court based on information they had reviewed.

C. Administrative review. This should take place in the social service unit on a planned regular basis.

D. Case review. Should be done by the caseworker and supervisor on all cases on a regular and frequent (minimum monthly) basis.

VIII. Disruption and Replacement

It must be realized that even with the most conscientious efforts by the family and child and the most skilled work by all those involved, some placements will not work out. When this happens it is important not to dwell on finding blame. The important thing is to continue to pursue the goals of permanency and development of Indian identity for the child. Everyone involved can contribute to these goals, even the biological parent who is unsuccessful in an attempt to provide full-time care for the child (Chaos, Madness, and Unpredictability, p. 195).

IX. Development of Community Resources to help with Placements

Professionals recognizing this need may need to provide leadership in developing resources.

A. Group homes. It may not be possible for some children to live in a family home - a group home may be needed. (Destruction of American Indian Families, p. 79)

B. Group treatment and counseling. This may need to be developed on the reservation, i.e., forming an older Indian children's group/

C. Individual casework.

1. Child therapy

2. Family counseling

3. Marriage counsling

D. Child enrichment programs (after school programs, day care)

E. Communication and problem solving. Communication and problem solving workshops. (TA, Parent Effectiveness Training)

X. Conclusion

The effectiveness of decisions regarding Indian children in foster care can be determined by the achievement of permanent homes in a setting where the opportunities for development of tribal identity are maximized. These goals must be defined in the context of the child, his parents, extended family, and tribe. Judges and social service workers making decisions and recommendations for Indian children in foster care can make more appropriate decisions with a systematic way of gathering assessment information on the child, family, and community and using that information to choose a placement alternative that best meets the needs

of the child in the context of maintaining family and tribal bonds.

Once a placement is chosen for a child, techniques used in placing children in foster and adoptive homes may be appropiatly applied to the process of returning Indian children to their families and tribes. To maximize the Indian child's chances for growth and development after placement, a variety of post-placement resources and services must be provided. The placement must be monitered so that services can be offered if problems develop that threaten the child's and family's future together.

The suggestions for a structured approach to the assessment, decision making, and replacement of Indian children presented in this outline will be most useful if agreements between tribal and state governments, courts, and social services agences can be developed which outline the overall guidelines and agreements for cooperation. It is within this overall context that the structure for decision making and child welfare practices presented in this outline will be most useful in returning to the Indian child in placement his/her birthright of a permanent home and tribal identity.

Resources and Materials

A. Tribal Social Services. Throughout country, contact individual tribe.

B. B.I.A. Social Services. Throughout country, contact local office.

C. Urban Indian Centers. (i.e., Seattle Indian Center, Phoenix, Indian Center, Los Angeles Indian Center.)

D. Urban Indian Child Resource Center, Oakland, California.

E. Native American Family Service, Minneapolis, Minnesota.

F. Indian Child Welfare Program, Jewish Family and Children's Service, Phoenix, Arizona.

G. Adoption Resource Center. An adoption resource center has recently been established in each HEW region. An ARC can provide valuable information about resources available to achieve permanence for children.

H. Centers for the Prevention of Child Abuse and Neglect. Centers have been established in each HEW region. In addition, there is an American Indian Resources Center in Oklahoma.

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